

**IN THE CIRCUIT COURT OF MCDONALD COUNTY  
STATE OF MISSOURI**

|  |   |                       |
|--|---|-----------------------|
| STATE OF MISSOURI, ex. rel.                | ) |                       |
| Eric Schmitt, Attorney General of          | ) |                       |
| Missouri, and Chris Chinn, Director of the | ) |                       |
| Missouri Department of Agriculture,        | ) |                       |
|  | ) |                       |
| Petitioners,                               | ) |                       |
|  | ) |                       |
| v.   | ) | Case No. 21MC-CV00669 |
|  | ) |                       |
| ANDRE DAMRILL, d/b/a                       | ) |                       |
| Magic Puppies,                             | ) |                       |
|  | ) |                       |
| Respondent.                                | ) |                       |

**AGREED ORDER OF PRELIMINARY INJUNCTION**

The matter before this Court is Petitioners' Application for Preliminary Injunction.

On July 20, 2021, Petitioners filed their Verified Application for Temporary Restraining Order, Preliminary and Permanent Injunction, and Civil Penalties alleging Respondent violated the Animal Care Facilities Act, codified in § 273.325 – 273.357, RSMo, the Canine Cruelty Prevention Act, codified in § 273.345, RSMo, and the regulations promulgated thereunder. Petitioners moved for a temporary restraining order without notice under Rule 92.02(b) the same day.

On July 20, 2021, this Court issued a temporary restraining order without notice and set the matter for hearing for a preliminary injunction on August 10, 2021. The temporary restraining order was due to expire in 10 days.

On July 30, 2021, this Court extended its temporary restraining order for an additional period of 10 days.

Pursuant to § 273.347.1, RSMo injunctive relief is available whenever the state veterinarian or state animal welfare official finds past violations of §§ 273.325 to 273.357, RSMo have occurred and have not been corrected or addressed.

Petitioners and Respondent, through their counsel, have stipulated to the entry of an agreed preliminary injunction based on the matters alleged in the Verified Petition. Respondent represents that there is no material dispute of the relevant conduct alleged in the Verified Petition against Respondent for violations of the Animal Care Facilities Act, Canine Cruelty Prevention Act, or the regulations promulgated thereunder.

Specifically:

1. Respondent is a commercial dog breeder doing business as Magic Puppies, with its principal place of business located at 683 Pack Road, Noel, McDonald County, Missouri (the “Facility”).

2. Respondent is a commercial breeder within the meaning of § 273.325.2(8), RSMo because she possessed commercial breeder license no. AC00208L issued by the Department under the Animal Care Facilities Act, which expires on January 31, 2022.

3. As of July 14, 2021, Respondent's Facility was 75 days past due for its yearly routine inspection pursuant to § 273.331, RSMo.

4. Since November 16, 2020, the Department of Agriculture, Division of Animal Health had been unable to conduct its statutorily-mandated inspection of Respondent's Facility pursuant to §§ 273.331 and 273.348, RSMo and regulations 2 CSR 30-9.020(1)(J) and 2 CSR 30-9.020(13)(B) on November 16, 2020; December 8, 2020; December 22, 2020; January 21, 2021; February 2, 2021; March 4, 2021; April 22, 2021; April 29, 2021; May 13, 2021; June 17, 2021; June 28, 2021; July 8, 2021; and July 14, 2021. Plaintiff was unable to contact the Defendant in an attempt to inspect her facility, animals, premises, and records.

5. After this Court issued its temporary restraining order, the Department conducted an inspection on July 27, 2021. At the inspection, Respondent's Facility contained 7 deceased dogs in various stages of decomposition in 3 pens. Additionally, 14 of the 15 living dogs at the Facility were underweight or severely underweight. Many of the dogs were found in need of immediate medical attention based on their observable body condition, including the presence of lesions, bony prominences, eye discharges, tapeworms, fleas, and ticks. None of the living dogs at the Facility had access to clean, potable water or uncontaminated food. The Facility lacked sufficient ventilation, and the ambient temperature of the sheltered building was 97

degrees Fahrenheit. The Facility's enclosures contained large piles of excrement. The Facility's enclosures lacked adequate aggregate flooring, and there were pens with chewed and exposed wood. Respondent was not present at her Facility while the inspectors were there in the afternoon. Respondent was not present when the inspection pursuant to the TRO was conducted and when the inspectors returned to provide their report sometime between 8:45 and 9 pm later that night. On the afternoon of July 28, 2021, one of the living dogs was found deceased.

This Court has considered the representations of the parties, the matters contained in this Agreed Order, and "the elements required to obtain a preliminary injunction" under *State ex rel. Dir. of Revenue, State of Mo. v. Gabbert*, 925 S.W.2d 838, 839 (Mo. banc 1996). This Court is persuaded that Petitioners have met their burden to obtain a preliminary injunction. Petitioners are likely to succeed on the merits of their claims in the Verified Petition, Petitioners will likely suffer irreparable harm absent an injunction, and both the balance of harms to the parties and the public interest justify a preliminary injunction.

IT IS THEREFORE ORDERED THAT, Respondent Andre M. Damrill d/b/a Magic Puppies and its respective officers, agents, representatives, employees and successors and all other persons in active concert and participation with Respondent are hereby restrained and enjoined from the

acquisition of any additional dogs or cats at her facility, including enjoinder from breeding any dogs or cats at her facility, and Respondent is ordered to separate the male and female animals at her facility to ensure no breeding occurs, and such separation shall occur immediately;

IT IS THEREFORE ORDERED THAT, Respondent Andre M. Damrill d/b/a Magic Puppies and its respective officers, agents, representatives, employees and successors and all other persons in active concert and participation with Respondent are hereby restrained and enjoined from selling, trading, bartering, brokering, adopting, giving away, or transporting any animals from her facility, except for the purposes of veterinary evaluation or treatment;

IT IS THEREFORE ORDERED THAT Respondent Andre M. Damrill d/b/a Magic Puppies and its respective officers, agents, representatives, employees and successors and all other persons in active concert and participation with Respondent grant immediate and unrestricted access to personnel or inspectors from the Missouri Department of Agriculture's Animal Care Program for the purpose of inventorying any dogs and cats at the facility, including those roaming the property, confined to enclosures, and housed within the residence or outbuildings, and undertake any subsequent inventory inspections with or without notice;

IT IS THEREFORE ORDERED THAT Respondent Andre M. Damrill d/b/a Magic Puppies and its respective officers, agents, representatives, employees and successors and all other persons in active concert and participation with Respondent provide personnel or inspectors from the Missouri Department of Agriculture's Animal Care Program access for inspections to ascertain the condition of any animals at the facility, to require Respondent to maintain photos for any disposition of dogs reported as dead, and allow officials to undertake any subsequent inspections with or without notice;

IT IS THEREFORE ORDERED THAT Respondent Andre M. Damrill d/b/a Magic Puppies and its respective officers, agents, representatives, employees and successors and all other persons in active concert and participation with Respondent provide personnel or inspectors from the Missouri Department of Agriculture's Animal Care Program access for inspections to any and all disposition and medical records, and undertake any subsequent inspections with or without notice;

IT IS THEREFORE ORDERED THAT Respondent cease engaging from any act that violates §§ 274.325 – 273.357, RSMo, § 273.345, RSMo, and the regulations promulgated under these statutes.

This Order shall terminate upon the entry of any final order or judgment by this Court.

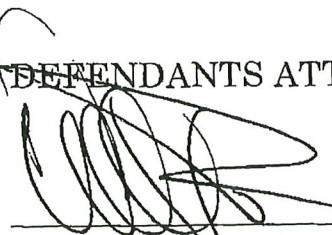
IN WITNESS WHEREOF, the parties have executed this Agreed Order  
of Preliminary Injunction:

DEFENDANT

  
Andre Damrill

Aug. 9, 2021  
Date


DEFENDANTS ATTORNEY

  
Mr. William J. Fleischaker  
Attorney at Law

8/9/2021  
Date


FOR PLAINTIFF STATE OF MISSOURI

MISSOURI DEPARTMENT OF  
AGRICULTURE

  
Matt Rold  
Missouri Department of Agriculture

August 9, 2021  
Date

MISSOURI ATTORNEY  
GENERAL'S OFFICE

  
Richard N. Groeneman  
Assistant Attorney General, #57157

August 9, 2021  
Date

SO ORDERED.

  
Judge Gregory Stremel

Date: 8/9/2021